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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/619,499 | 07/16/2003 | Masami Shirai | P23561 | 8848 |

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| EXAMINER | |
|---|---|
| PRITCHETT, JOSHUA L | |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2872 | |

DATE MAILED: 12/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 10/619,499 | SHIRAI ET AL. | |
| | Examiner | Art Unit | |
| | Joshua L Pritchett | 2872 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-8* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-8* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *16 July 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *10/03 2/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki (US 4,067,027).

Regarding claim 1, Yamazaki teaches an observation device (Fig. 3) with a photographing function (col. 1 lines 5-10), having an observation optical system and a photographing optical system (col. 1 lines 5-10), the observation optical system being utilized as a focusing device for the photographing optical system (col. 2 liens 58-68), the observation optical system comprising, a first focusing mechanism that focuses the observation optical system so as to observe a close-range view through the observation optical system (col. 2 lines 58-68); a second focusing mechanism that focuses the photographing optical system so as to photograph as close-range view through the photographing optical system (col. 2 lines 58-68); an association mechanism that associates the first and second focusing mechanism with each other in such a manner that the observation optical system and the photographing optical system are

always kept in a focused state (col. 2 lines 58-68; col. 3 lines 13-15); a reticle (11) provided in the observation optical system with a predetermined dioptric power during an operation of the association mechanism (col. 2 lines 58-68). Yamazaki lacks specific reference to the dioptric power difference between the eye and the ocular lens system and the objective lens system and the observation optical lens system being cancelled. The specification of the current application states, on page 32, that the dioptric power difference can be cancelled by adjusting the distance between the ocular lens system and the aperture plane. Yamazaki teaches that the ocular lens system is capable of changing the its position along the optical axis (col. 2 lines 12-14; col. 2 lines 58-68). Therefore the Yamazaki reference is capable of canceling the dioptric power difference. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the ocular lens system of the Yamazaki reference positioned so as to cancel the dioptric power difference for the purpose of allowing the user to see a clear image of the viewed object.

Regarding claim 2, Yamazaki teaches the invention as claimed but lacks specific reference to the use of an arithmetic mean to measure the dioptric power difference. It is extremely well known in the art to use an arithmetic mean to measure the dioptric power different between optical elements. Official Notice is taken. It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the Yamazaki invention use an arithmetic mean to determine the dioptric power difference as is known in the art for the purpose of obtaining a reliable value for the dioptric power different.

Regarding claim 3, Yamazaki teaches the association mechanism comprises a rotary wheel member (14) having a manually operated rotary wheel; the observation optical system

comprises two optical system elements that are movable along the optical axis of the observation optical system to focus the observation optical system (Fig. 3; col. 2 lines 58-68); the first focusing mechanism forms a first movement-conversion mechanism for converting a rotation movement of the rotary wheel member into a relative back and forth movement of the two optical system elements (col. 2 lines 58-68); the photographing optical system is movable relative to an imaging plane along the optical axis of the photographing optical system to focus the photographing optical system; and the second focusing mechanism forms a second movement conversion mechanism for converting a rotation movement of the rotary wheel member into a back and forth movement of the photographing optical system elements relative to the image plane (col. 2 lines 58-68).

Regarding claim 4, Yamazaki teaches the rotary wheel member comprises a rotary wheel cylinder in which a lens barrel is housed so as to be movable along the central axis of the rotary wheel cylinder (Fig. 3), the photographing optical system is housed in the lens barrel; the second movement conversion mechanism comprises a first cam groove formed in one of the rotary wheel cylinder and the lens barrel; and a first cam follower formed in the other of the rotary wheel cylinder and the lens barrel; and the first cam groove is formed in such a manner that a rotational movement of the rotary wheel cylinder is converted into a back and forth movement of the lens barrel along the central axis of the rotary wheel cylinder (Fig. 3; col. 2 lines 58-68).

Regarding claim 5, Yamazaki teaches the rotary wheel member comprises a rotary wheel cylinder in which a lens barrel is housed so as to be movable along the central axis of the rotary wheel cylinder (Fig. 3), the observation optical system is housed in the lens barrel; the first movement conversion mechanism comprises a second cam groove formed in one of the rotary

wheel cylinder and the lens barrel; and a second cam follower formed in the other of the rotary wheel cylinder and the lens barrel; and the second cam groove is formed in such a manner that a rotational movement of the rotary wheel cylinder is converted into a back and forth movement of the lens barrel along the central axis of the rotary wheel cylinder (Fig. 3; col. 2 lines 58-68).

Regarding claim 6, Yamazaki teaches the observation optical system forms a pair, so that the observation optical device function as a binocular telescope with a photographing function (Fig. 3).

Regarding claim 7, Yamazaki teaches the pair of observation optical systems are mounted on an optical system mount plate that comprises a first and second plates that are movable relative to each other, one of the pair of observation optical systems is placed on the first plate and the other of the pair of optical systems is placed on the second plate, so that the distance between the optical axes of the pair of observation optical systems is adjusted by changing the relative positions of the first and second plates (Fig. 3; col. 2 lines 55-57).

Regarding claim 8, Yamazaki teaches the first and second plates are linearly moved relative to each other so that the optical axes of the pair of observation are moved in a predetermined plane, whereby the distance between the optical axes of the pair of observation optical systems is changed (col. 2 lines 55-57).

## *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JLP

DREW A. DUNN
SUPERVISORY PATENT EXAMINER